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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,962	01/31/2001	Jim McCollum	826	6020

7590

06/11/2002

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Akron, OH 44308

EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 06/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/774,962

Applicant(s)

MCCOLLUM ET AL.

Examiner

Christopher Bottorff

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The examiner has considered the information disclosure statement submitted on January 31, 2001.

### ***Specification***

The use of the trademark VELCRO<sup>TM</sup> has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

Claim 5 is objected to because of the following informalities: A term such as "comprises" appears to have been omitted from line 1 between "further" and "an". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 4 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the upright member of the frame" in lines 2 and 3. Claim 7 recites the limitations "said bottom end," "the base," and "the base of the athletic bag" in lines 1, 2, and 3 respectively. There is insufficient antecedent basis for these limitations in the claims.

Also, the limitation "said bottom end" in line 1 of claim 7 does not clearly establish which component comprises this "end."

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen US 5, 845,780.

Allen discloses a wheeled, portable, collapsible athletic equipment carrier 10. See figures 1-3. The carrier includes a two-wheeled cart (note the handle and wheel arrangement depicted in figures 1 and 3) and an athletic bag . The bag has a generally vertically elongated configuration fabricated of a fabric that is heavy, flexible, and weatherproof.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen US 5,845,780 in view of Weldon US 6,386,557.

The cart of Allen does not have the structure defined in claims 2-5 and 7.

However, Weldon teaches that such a cart, used for carrying athletic equipment, was old and well known in the art at the time the invention was made. See figures 1-3.

Weldon's cart includes a main frame 10 with anterior and posterior ends, a base member 16 formed in a U-shape of hollow tubes, a support stand 17 affixed to the base member and formed in a U-shape of an elongated hollow tube, a handle 30 pivotally mounted to the sidewalls of the main frame and formed in a U-shape of a hollow tube, and a mounting platform 15 that serves as a base upon which athletic equipment can be permanently attached. *Note, two wheels are clearly shown by Weldon.*

Providing the bag of Allen on a cart of the structure disclosed by Weldon, rather than the unsubstantial wheel and handle arrangement of Allen, would have been obvious to one of ordinary skill in the art at the time the invention was made. This modification would provide a sturdy base of support for the bag and allow the apparatus to be transported over difficult terrain, such as an uneven and grassy/muddy field.

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Also, the examiner takes official notice that inflating pumps are old and well known pieces of athletic equipment that are commonly carried with athletic equipment carriers. Attaching a pump to the carrier would have been obvious to one of ordinary skill in the art at the time the invention was made in order to service the other athletic equipment.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen US 5,845,780 in view of Pratt et al. US 6,357,586.

Allen also does not disclose ball-receiving cylinders attached to the front side of the bag. However, Pratt et al. teaches that the practice of attaching a ball-receiving cylinder 10 to the front side of an athletic bag was old and well known in the art at the time the invention was made. See figure 6. Providing the bag of Allen with a ball-receiving cylinder would have been obvious to one of ordinary skill in the art at the time the invention was made in order to hold balls that are used with the athletic equipment in the bag.

Furthermore, providing the cylinder with a specific diameter to accommodate a specific ball represents an obvious design choice that was within the purview of one of ordinary skill in the art at the time the invention was made. Also, providing a pair of cylinders represents an obvious duplication of parts.

### ***Conclusion***

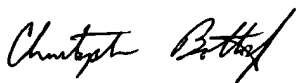
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holtz, Harling, Ingalls, and Marques et al. disclose various cart configurations. Vienneau, Hamblin, Lin, and Lawson disclose various equipment carriers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher Bottorff  
June 4, 2002



BRIAN L. JOHNSON  
PATENT EXAMINER 6/5/02  
NUMBER 0300